

holding that "all the eight accused persons were charged jointly" when in fact they had not been so charged.

It is true that the word "jointly" which appeared in an earlier charge had been omitted when an amended charge was put in at a later stage of the trial.

The fact that the appellants had been jointly tried cannot be a matter of doubt. It became clear whilst this ground was being argued that learned counsel wished to confine his arguments to a point of law *viz*: that the omission of the word "jointly" rendered the charge defective.

I am unable to find any authority to support this proposition of law, nor indeed could learned counsel for the appellants. On the evidence, the appellants had collectively committed the same offence, namely that of assisting in the carrying on of a public lottery and were in my view properly charged and tried together in accordance with section 170 of the Criminal Procedure Code.

Indeed, even if the inclusion of the word is required by the law, the appellants were represented in the court below by a counsel of considerable experience and there is nothing on the record to indicate that they were not fully aware that they were being jointly charged and tried. No injustice had therefore resulted from the omission, if omission it is, and the defect if any would therefore be curable under section 422 of the Code.

The next ground which I propose to consider, is the argument that there must be proof of individual possession or in other words that prosecution should adduce evidence to show that certain specific exhibits were in the sole possession of a specific appellant. In fact, at the trial, this was precisely what the prosecution sought to do.

However I am in complete agreement with the learned senior president when he held that all the circumstances surrounding the discovery of the appellants in a secluded back room, difficult of access, a room furnished as an office, and equipped with a warning system — would justify one and only one inference: not an inference that they were sitting down to a friendly tea party, or were paying one another a social call, but that they were, as the charge alleged, collectively concerned in the carrying on of a public lottery.

I have carefully considered the evidence in the light of the test enunciated by Thomson J. (as he then was) in the case of *Chan Pean Leong v. Public Prosecutor*.⁽¹⁾ I am completely satisfied that possession for the purposes of criminal law there was, and that such possession was collective.

I have also considered the ingenious argument advanced by Mr. Lim that the presumption

A in section 11 of the Common Gaming Houses Ordinance, 1953 operates only in those cases where the offending exhibits are found in the sole possession of an individual, and that where there is joint possession, the presumption cannot be invoked. I regret that I am unable to agree with that argument. Since there is nothing in the context of that section inconsistent with the view I hold, nor is there anything in the Ordinance which provides otherwise, the word "person" shall include any body of persons, corporate or unincorporate, in accordance with section 2 of the Interpretation and General Clauses Ordinance, 1948.

C The appeal against conviction and sentence was therefore dismissed except in regard to the order of forfeiture made by the learned president in respect of various sums of money found in the pockets of seven of the appellants. When one considers the evidence of the expert PW3 that the total value of the sum punted was over \$5,000, neither section 16(2) of the Ordinance, nor section 407 of the Criminal Procedure Code can, in my view fairly apply to modest sums so found and I therefore ordered the return of the money found on their persons to the appellants concerned.

E Order accordingly.

Solicitors: *Lim, Lim & Oon.*

MALAYAN MINERS CO. (M) LTD. v. LIAN HOCK & CO.

F [O.C.J. (Winslow J.) June 17, 1966]
[Singapore — Suit No. 695 of 1964]

Contract — Sale by auction — When property passes — Fraudulent misrepresentation — Innocent misrepresentation that goods are in good condition — Whether contract can be rescinded for innocent misrepresentation — Sale of Goods Act, 1893, ss. 18 and 58.

G In this case the defendants had made a successful bid for a tounadozer which was described in the auctioneer's list as being in good condition. The written contract of sale contained a condition that the lots were sold as they lie with all faults and errors of description. After the sale the defendants alleged that the tounadozer was not in good condition. It was subsequently resold and the plaintiffs thereupon claimed the sum of \$3,905.50 being the difference on the resale and costs. The defendants pleaded that there was innocent misrepresentation on behalf of the plaintiff that the tounadozer was in good condition or alternatively that there had been fraudulent misrepresentation by the auctioneers on behalf of the plaintiff.

H Held: (1) on the facts there was no fraudulent misrepresentation on the part of the plaintiff or his agents;

I (2) even if there had been innocent misrepresentation the remedy for it was damages for breach of warranty and not rescission and as no claim for damages was made in this case by the defendant, the court could not come to any finding on it;

(3) the plaintiff was therefore entitled to damages for breach of contract.

Cases referred to:—

- (1) *Derry v. Peek* (1889), 14 App. Cas. 337.
- (2) *Mesnard v. Aldridge* 170 E.R. 612.
- (3) *Schneider and another v. Heath* 170 E.R. 1462.
- (4) *Leaf v. International Galleries* [1950] 2 K.B. 90.
- (5) *Ward v. Hobbs* (1878), 4 App. Cas. 20.

SUIT.

C. S. Wu for the plaintiff

K. S. Chung for the defendants.

Cur. Adv. Vult.

Winslow J.: At an auction sale conducted by Messrs. Kiong Chai Woon & Co., Ltd. (licensed auctioneers) on 6th January, 1964 at the plaintiff's mine at Sri Medan in the State of Johore, Mr. Ho Hon Hong (D.W.1), sole proprietor of the defendant firm (hereinafter referred to as "the defendants"), made a successful bid at \$30,000 for one of the lots of machinery described in the auctioneers' list as "Lot No. 7 — One unit Tournadozer powered by 186 H.P. G.M. Engine (MMS/P. 8) (Good Condition)". A deposit of \$3,000, representing 10 per cent of the purchase price, was made by the defendants.

It is claimed that, by virtue of the provisions of sections 18 and 58 of the Sale of Goods Act, the property in the said tournadozer accordingly passed to the defendants at the fall of the hammer.

The written conditions of sale, *inter alia*, provide that the highest bidder shall be the buyer, that the buyer shall, if required, pay a deposit of 10 per cent of the purchase price immediately after the sale and that the balance shall be paid before the removal of any lots. They also provide that the whole amount due shall be paid within 24 hours after the day of sale failing which the deposit will be forfeited and the vendor will be at liberty to re-sell the property without giving previous notice to the buyer and that any deficiency therefrom, and all expenses attending the sale shall be made good by the buyer and will be recoverable from him by the vendor.

Condition 5 of the written conditions of sale provides as follows:—

"The lots are sold 'as they lie' with all faults and errors of description. The purchaser is deemed to have inspected and approved of the lots he buys and if he buys without previous inspection he shall be deemed to have done so at his own risk".

The defendants refused to take delivery of the tournadozer, after having made their deposit, on the ground that it was not in good condition and the tournadozer was subsequently sold by the plaintiff by public auction on 14th March, 1964 for \$24,000. The plaintiff accordingly claims the sum of \$3,905.50 being the difference between \$30,000 and the price recovered on re-sale less the amount of deposit, i.e. \$3,000 plus the sum

A of \$905.50 for expenses and charges incurred in respect of the second auction.

The defendants plead, in their defence, that there was innocent misrepresentation by the auctioneers on behalf of the plaintiff that the tournadozer was in good condition which induced the defendants to bid for and/or purchase the said tournadozer.

Alternatively the defendants allege that there was a fraudulent misrepresentation by the auctioneers on behalf of the plaintiff either well knowing that it was false or recklessly and not caring whether it was true or false (following the well-know principle in *Derry v. Peek*.⁽¹⁾) The representation which is said to be untrue and/or false is said to be contained in the words "Good Condition" in the auctioneers' list and in the prior advertisement of the auction sale when, in fact, according to the defendants, the engine of the tournadozer had seized and was not workable.

The defendants also counterclaim that the said sale should be rescinded and that they should recover the deposit of \$3,000 with interest at 10 per cent per annum until payment or judgment and the sum of \$3,000 as damages (being 10 per cent commission on the auction price) which they had hoped to gain on their re-sale of the tournadozer to a client engaged in housing development in Ipoh who had asked them to obtain such a machine. They also claim a sum of \$184.20 for expenses incurred in travelling to and from Singapore to the site in connection with the purchase which they now seek to set aside.

In his reply and defence to the counterclaim the plaintiff says that the tournadozer was at all material times in good condition and that, if it was not, neither the plaintiff nor the auctioneers were aware of this and made the alleged representation, if any, honestly and in the belief that it was true. The plaintiff also says that the defendants were fully aware of the conditions of sale and, in particular, condition 5 thereof which was brought to the notice of all persons present at the auction including the defendants immediately before the sale.

Counsel for the defendants, in his final address, conceded that, in view of the fact that his clients' attention had been drawn to the conditions of sale at the actual sale, he could not argue that his clients were not bound by these conditions. That he was right in so conceding follows from the decision in *Mesnard v. Aldridge*.⁽²⁾

It is common ground that the tournadozer in question could not be started on 11th January, 1964. Each side alleges that representatives of the other side tried to start its engine on that date without success at the auction site outside the plaintiff's office. Neither side would, in

evidence, acknowledge responsibility for starting the machine on the ground that as it belonged to the other it was for the other to start it. The fact remains, however, that its engine could not be started (whoever tried to do so) despite efforts made over a period extending from 11 a.m. to the lunch hour. The plaintiff alleges that the batteries used by the defendants were not of sufficient voltage whereas the defendants claim that the batteries used by the plaintiff refused to inspire movement of any kind in the machine which, according to them, was "jammed" or "seized" and therefore unworkable. The defendants accordingly refused to take delivery of the tournadozer and returned to Singapore on 11th January, 1964.

The plaintiff's mines manager, P.W.3, Mr. Tan Chin Chong, claims, however, that the machine was started with the aid of efficient batteries not long after the visit by the defendants' representatives on 11th January (on which day he himself was not present) and that he himself witnessed its efficient performance when he returned to the mine from Singapore on 14th or 15th January. He also claims that, according to his machine stockledger, based on engineering reports, the machine was in good working condition and that in early December 1963, when it was moved from the worksite to the site of the auction, he had seen it in motion and that he was then satisfied that it was workable.

The question which I have to decide is whether the defendants were induced to purchase the machine on 6th January, 1964 by a representation to the effect that the machine was in good condition, made prior to the sale, in circumstances which entitle them to ask for rescission of the sale on grounds of innocent or fraudulent representation.

The alleged representation, as I have stated earlier, is that, according to the auctioneers' list and the prior advertisement, the machine was in good condition.

The auctioneers' list must, in my opinion, be regarded as being included in the terms of the offer which resulted in the bid which is said to have concluded the contract of sale. The auctioneer (P.W.1) under cross-examination, stated that this was so, although he tried to modify or retract this in re-examination. "Errors of description" in condition 5 would be meaningless without recourse to such a list.

It should also be noted that condition 5 of the conditions of sale provides that the purchaser buys the lots "as they lie with all faults and errors of description" and that he is deemed to have inspected and approved of the lots he buys if he does so without previous inspection.

A In this case the buyer had inspected the goods before the auction thoroughly. He was satisfied, from that personal inspection, that its tyres were satisfactory and that no parts were missing and that on the whole it was what he wanted. He, therefore, as I have found, bid for it successfully at the auction, standing literally in front of the auctioneer (P.W.1) and P.W.3 (the mines manager) who both knew him previously. He had then no suspicions or complaints to make of any defect in the machine till after the payment of the deposit and after he returned to Singapore when he wrote a letter (exhibit AB.23) the same day complaining of adverse rumours passed on to him by his client which impelled him to ask for evidence of the operability of the machine before he was prepared to take delivery. It should be noted that, at the inspection prior to the auction, it never occurred to him to ask for the machine to be started as he could easily have done. I do not accept his evidence that he did not ask for this because there was no one there who could oblige him in this respect. P.W.2 was most certainly there and had he been asked (which he was not) he could have arranged for a demonstration.

E This witness (D.W.1) proved to be somewhat unsatisfactory in many ways in the course of his evidence. He admitted to "exaggeration" in the correspondence which he and his solicitors, under his instructions, conducted with the plaintiff and his solicitors, in order to make matters appear more favourable to himself. Exaggeration is an understatement. Some of the statements were untrue e.g. (to mention only two) the fact that he had brought a foreman down from Ipoh by air to inspect the machine on 11th January and that he had been put to considerable expense in obtaining another machine for his client in place of the one he had bought when, in fact, he had done no such thing. I do not also accept his evidence as against that of the mines manager (P.W.3) that they did not meet at a coffee session in the latter's office a few days before the auction when the latter offered him facilities to inspect the machine (with the aid of P.W.2) of which he availed himself.

H The defence witnesses in support of D.W.1 did not carry the case for the defence very much further except as to the inability of the machine to start on 11th January. No one could pinpoint, as an expert, exactly what was wrong with the machine apart from its being unable to start. Whereas P.W.2 (who was not a particularly satisfactory witness since he knows nothing of machinery) said that the movement in the machinery was poor on 11th January, the defence witnesses said that it made no sound or noise at all and that therefore (by inference) it was not a question of a weak battery but of a "jammed" engine.

Exhibit AB.23, complaining of unworkability etc. was, in my view, a "try-on" after Mr. Ho (D.W.1) had spoken to Mr. Toh (D.W.4) (the client from Ipoh) who warned him about the unsatisfactory state of machines bought at auction. Unless he could show that the machine was unworkable D.W.1 had no hope at all of extricating himself from his legal obligation to pay the balance and remove the machine. It was incumbent on him to prove, at the very least, that there had been an untrue or false representation as to the machine's condition which went to the root of his contract with the plaintiff. The plaintiff's auctioneer and the mines manager could easily have "sat tight" and refused him any further inspection or demonstration as claimed and he would have been left entirely on his own to prove that the machine was not in good condition. What did he do? He prevailed upon the vendor to arrange for a further inspection, when, armed with a cortege of "experts", according to him, he set out to try and prove his point to his own satisfaction if not to that of the vendor or anyone else. A few days earlier he had satisfied himself as to the machine's condition, after a thorough inspection — at the very least he would have been bound by condition 5 even if he had made no inspection. The question which arises for consideration is whether, despite condition 5 (negating any responsibility for faults in the machine) the seller is bound by his asservation that the machine was in good condition as set out in the list.

The many authorities cited on the question of a sale "with all faults" make it clear that a buyer may have good cause for avoiding his contract with the seller where the latter knew of secret defects in the goods sold and used means to prevent the buyer from discovering them or made a fraudulent representation as to their condition at the time of sale (see *Schneider & Anor. v. Heath*).⁽³⁾

There can be no question here of the plaintiff's knowledge of secret defects or of any attempt to hide them (if any). P.W.3 was a sound and reliable witness as well as a shrewd and astute businessman. I have no reason to doubt any part of his evidence. He was "dead sure" that he offered Mr. Ho and his party coffee at his office and asked P.W.2 to show them round the site to inspect what they would before the auction. He was sure that the machine was operable, having seen it himself in operation in early December, 1963. He had no reason to believe, when he asked the auctioneer to describe it in the list as being in good condition, that it was not. Moreover, he was supported by the machine stockledger based on the report of inspecting engineers. His stocks were regularly checked. The sale conducted by the auctioneers involved altogether nearly a million dollars.

A There was no complaint about any of the machines sold, except by the defendants. Mr. Ho had previously bought goods at auctions conducted by the same auctioneers and, in one case, involving records bought by him at an auction, had also made a complaint on that occasion about a shortage in the number of records. P.W.3 in my opinion, acted in good faith throughout and kept no secrets from any of his potential purchasers. Where machinery was not in good condition or had any parts missing he disclosed this clearly in his list. I am completely satisfied that on the occasion of this sale by auction, at which he was present, and even previously, he acted with the utmost candour in all respects and never committed any fraud or deceit within the rule in *Derry v. Peek*, *supra*.

B I have already commented on Mr. Ho's evidence. As between P.W.3 and Mr. Ho, P.W.3 was obviously the more reliable witness. As I have already said, Mr. Ho never suffered any twinge of conscience over telling a few untruths in order to improve his own position.

C I therefore, reject the defence of any possible fraudulent representation because there was none. Of fraud, in any sense of the term, there is absolutely no acceptable evidence.

D It only remains for me to consider whether there was any innocent misrepresentation which entitles the defendants to rescission of the contract in equity because this is the only other defence pleaded. The defendants do not plead nor do they ask for damages in respect of any breach of warranty. They say, in effect, that the assurance that the machine was in good condition goes to the root of the contract and that the fact that it would not start on 11th January, 1964 entitles them to rescission.

E As *Chitty* says at paragraph 309 of Volume I (General Principles) 22nd Edition, "There appears to be no case since the Sale of Goods Act was passed in which a contract for the sale of goods has been rescinded for innocent misrepresentation." That Act was passed in 1893! I am asked, 73 years later, to hold that it can be a successful ground now. I am aware that doubts have been expressed about the proposition that innocent misrepresentation can never be a ground for rescinding an executed contract (see *Leaf v. International Galleries*)⁽⁴⁾ but I do not think that the present case is one to which this remedy applies.

F I accept what *Chitty* says, despite the fact that it has been urged upon me generally that one should be slow to accept, without reservation, the opinions of writers of text-books on propositions such as these. Any dilatoriness on my part in accepting this proposition for the purpose of awaiting a more authoritative pronouncement on this point will almost certainly

hold up my judgment for several months (if not years) and I do not propose to do so.

Mr. Wu, on behalf of the plaintiff, submitted that this defence was misconceived and after careful consideration of the authorities I am inclined to agree with him. Under section 11(1) (e) of the Sale of Goods Act a buyer loses his right to reject for breach of condition and is limited to a claim for damages in the case of a contract for the sale of specific goods the property in which has passed to the buyer unless the contract otherwise provides. Under section 18 of the same Act, property in the goods passes to the buyer when the contract is made where there is an unconditional contract for the sale of specific goods in a deliverable state. In my opinion Mr. Wu is right in his contention that, at the fall of the hammer, the property in the tournadozer passed to the defendants. At the very most there was a breach of warranty as to the fitness of the machine but, in my view, there was no breach of any condition precedent or fundamental obligation sufficient to invalidate the contract which was made. *Cheshire and Fifoot* state in their 6th Edition of the Law of Contract at page 140 —

"If, therefore, A contracts to buy from B the particular motor-car now in B's garage, the property in the car passes to A as soon as the contract is made. If the car does not answer the description that may have been given of it, or if B is a car dealer and the car is unfit for the purpose explained to him or is unmerchantable, A cannot reject it. Whether he has seen it or not and whether it has been delivered to him or not, the property in it has passed to him, and section 11(1)(c) applies".

I am aware that the traditional view, as *Chitty* says in Volume 2 (Specific Contracts) 22nd Edition at paragraph 1377, is that an unconditional contract is a contract subject to no condition precedent and, alternatively, one that contains no essential undertaking. Where property passes to the buyer the risk also passes to him and his remedy is not for rescission of the contract but for breach of warranty by way of a claim for damages.

I have carefully considered the cases cited on the question of the sale of specific goods subject to the condition that the buyer is to take the goods "as they now lie with all faults and errors of description" or words to that effect. It is clear that in such cases the vendor gives no warranty at all. If, however, he proceeds to make some expressed representation as to their freedom from any particular fault (e.g. as in *Ward v. Hobbs*),⁽⁶⁾ then it can be said that the later representation will override the previous statement that he gives no warranty at all. But the strength of this argument may be reduced where the buyer has been offered an opportunity of inspecting and examining the goods in question to satisfy himself as to their condition and

A has done so without any act on the part of the vendor to conceal that fault.

In the present case the buyer inspected the tournadozer. He was satisfied with it and he never asked for the machine to be started. To a certain extent it may be said on his behalf that he relied on the vendor's statement that it was in good condition. The fact that it was unable to start, although efforts were made over a period of 2 hours to induce some response from the machine, is a matter on which, I think, he may have had a chance of success had he brought his claim for damages for breach of warranty but he has made no such claim and I do not have to make a finding on that.

It only now remains for me to decide whether the plaintiff should recover, as damages, the difference (under condition 6) between \$30,000, being the bid at the first auction and \$24,000 which is the price for which he sold it a couple of months later. It should be noted, in this respect, that at the second auction the plaintiff refrained from making any written representation as to the condition of this tournadozer although it is alleged that this was done orally at the sale. In my opinion the fact that this representation was not repeated in the list at the second auction had some effect in keeping the price down and I am satisfied that if that representation had been made on the second auction, as it was on the first, the bid would probably have been higher than \$24,000. The plaintiff's auctioneer (P.W.1) himself admitted that such a representation would tend to improve the price and that that is why it is usually made.

It does not necessarily follow that the bid at the second auction would have been the same as at the first although I accept it as a fact that no repairs were done to the machine during the intervening period. I have to bear in mind, however, that there was at least some controversy over its ability to start on 11th January which must have, as I have earlier said, had some effect on buyers at the second auction of the same machine and I am not prepared to hold that the bidding at the second auction would have been as high as at the first, even if the written representation as to its condition had been repeated and if, on inspection, it had been found to be able to start. The machine had also aged slightly during the intervening period which fact alone would cause some depreciation apart from the history of the contretemps over it earlier that year.

In all the circumstances of this case, I think that it would be reasonable to assess the price at which it would probably have been sold at the second auction (if a similar representation had been made) in the region of \$27,000 (being a figure half way between the two). This will

enable the plaintiff to retain the sum of \$3,000 which he received as a deposit from the defendants. All I am disposed to award the plaintiff now, therefore, is the sum of \$905.50, being the amount of the expenses incurred in respect of the second auction and he will accordingly receive this sum by way of damages, together with costs on the lower scale. It follows that the defendants' counterclaim is also dismissed with costs on the same scale.

Order accordingly.

Solicitors: *Donaldson & Burkinshaw; Chung & Co.*

In the matter of CARGO HANDLING CORPORATION LTD. v. CARGO HANDLING CORPORATION STAFF UNION

[O.C.J. (Gill J.) June 17, 1966]

[K.L. — Originating Summons No. 231 of 1965]

Administrative Law — Prohibition — Industrial Arbitration Tribunal — Industrial dispute settled — Whether tribunal to take cognizance.

Essential (Trade Disputes in Essential Services) Regulations, 1965 — Meaning of trade dispute — Application for prohibition against the Industrial Arbitration Tribunal.

Industrial Dispute — Dismissal of union members — Settlement between employers and union — Whether tribunal to take cognizance of settlement.

This was a motion to prohibit the Industrial Arbitration Tribunal from continuing to hear a trade dispute between the Cargo Handling Corporation Ltd. and the Cargo Handling Corporation Staff Union. The union had made representations to the employers against the dismissal of eight supervisors and demanded their reinstatement; and they eventually reported the matter to the Minister of Labour. Attempts at conciliation failed and the Minister referred the dispute to the Industrial Arbitration Tribunal, by letter in which he stated that the dispute was between the Cargo Handling Corporation Ltd., Port Swettenham and the Cargo Handling Corporation Staff Union, that the dispute was over the dismissal of eight named supervisors and the union's claim for their reinstatement and that it was being referred to the tribunal under regulation 4(4) of the Essential (Arbitration in the Essential Services) Regulations, 1965, for settlement in accordance with the regulations. The dispute was heard by the tribunal but while the hearing was still in progress the employers and the union reached a settlement. The terms of settlement were read out to the tribunal and it was asked to take cognizance of the agreement. The employers submitted that since the dispute no longer existed there was nothing further for the tribunal to determine. The tribunal however gave a ruling that the parties to the trade dispute before it were the employers on the one side and the eight supervisors on the other. The employers applied for an order to prohibit the tribunal from continuing to hear the dispute.

Held: (1) from a reading of the regulations as a whole it would appear that a dispute in respect of employment or non employment or terms of employment of an individual workman cannot come within the definition of "trade dispute" unless the cause of such indi-

A vidual workman has been espoused by a number of other workmen or a union of workmen;

(2) the dispute in the present case was between the employers and the union and as they had come to a settlement, the tribunal had no option but to take cognizance of it.

Cases referred to:—

- B (1) *R. v. National Arbitration Tribunal, ex parte Horatio Crowther & Co. Ltd.* [1947] 2 All E.R. 693.
(2) *Lakshmi Talkies v. Munnaswami* [1955] 2 L.L.J. 477.
(3) *R. v. National Arbitration Tribunal, ex parte South Shields Corporation* [1952] 1 K.B. 46, 53.
C (4) *R. v. Industrial Disputes Tribunal, ex parte Queen Mary College, University of London* [1957] 2 All E.R. 776.
(5) *National Association of Local Government Officers v. Bolton Corporation* [1943] A.C. 166, 189.

ORIGINATING SUMMONS.

D *J. J. Puthucheary* for the applicants.

Au Ah Wah (Federal Counsel) for the Minister and Chairman, Industrial Arbitration Tribunal.

R. Ponnudurai for two of the supervisors.

E *Cur. Adv. Vult.*

Gill J.: This is a motion for an order to prohibit the Industrial Arbitration Tribunal from continuing to hear a trade dispute between the Cargo Handling Corporation Ltd. (the applicants to these proceedings) and the Cargo Handling Corporation Staff Union, which was referred to the tribunal by the Minister of Labour.

F The dispute in question arose over the termination by the Cargo Handling Corporation hereinafter referred to as "the employers") of the services of eight of their labour supervisors between 2nd April and 28th May, 1965. The G Cargo Handling Corporation Staff Union (hereinafter referred to as "the union") made representations to the employers against the dismissal of the eight supervisors and demanded their reinstatement. Some discussions took place, but they did not lead to a settlement.

H The union reported the matter to the Minister of Labour on 22nd July, 1965. By his letter dated the 24th July, 1965 the Minister of Labour informed the employers that the union had reported under the Essential (Arbitration in the Essential Services) Regulations, 1965, the existence of a trade dispute with them. After I attempts at conciliation had failed, the Minister by his letter dated 11th August, 1965 referred the dispute to the Industrial Arbitration Tribunal. It was stated in that letter that the dispute was "between the Cargo Handling Corporation Ltd., Port Swettenham and the Cargo Handling Corporation Staff Union", that the